

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



Terry C. Anderson
Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE RULE 00-093

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

1. Statutory Authority

a. What is the authority for the limitation in s. NR 168.07 (8)? The limitation does not appear to be a necessary part of “asbestos abatement activities” which are eligible activities under s. 292.75 (3) (d), Stats.

b. Is it clear that the grant criteria set forth in s. 292.75 (5) (a) and (b), Stats., are included in the scoring criteria under s. NR 168.13?

2. Form, Style and Placement in Administrative Code

a. The department’s analysis provides little information about the actual content of the rule.

b. Section NR 168.01 (2) is unnecessary; see the note following s. NR 168.03 (4).

c. In s. NR 168.03 (1), it is suggested that “a brownfield site assessment grant” replace “funds for eligible activities.”

d. Section NR 168.03 (intro.) should read: “In this chapter.”

e. In s. NR 168.03 (3) and (4), “given” should replace “specified.”

f. Beginning with the definition of “grantee or grant recipient” in s. NR 168.03, the remaining subsections are incorrectly numbered. It is not clear why both “grantee” and “grant recipient” are utilized in the rule.

g. In s. NR 168.03 (5), the material following “Stats.” may be deleted and placed elsewhere in a substantive provision.

h. In s. NR 168.03 (13), use of “includes” implies that the definition is not inclusive. Is that the intent?

i. In s. NR 168.05 (1), it is suggested that “grants under this chapter” replace “this grant program.” In sub. (2), it is suggested that “under this chapter” follow “grants.”

j. In s. NR 168.07 (2), “the” should replace “this” and “category shall be established as follows:” may be deleted.

k. In s. NR 168.07 (3), “if” should replace “in the event that.”

l. In s. NR 168.07 (4), it is suggested that “may not exceed” replace “shall be limited to.”

m. In s. NR 168.07 (5), it is suggested that “of rank” follow “order” in the last sentence.

n. If s. NR 168.07 (8) is retained, a tighter link should be made between that subsection and s. NR 168.09 (4).

o. In s. NR 168.11 (3), use of the term “submittal dates” should be compared to the definition of “submittal date” in s. NR 168.03 (13).

p. In s. NR 168.13 (1), first sentence, “following” should be deleted and “in this section” should follow “criteria.”

q. In s. NR 168.13 (2) (intro.), it is suggested that “grant applications” be substituted for “applications for grants.”

r. In pars. (a) to (d) of s. NR 168.13 (2), it is suggested that “for an eligible site or facility” need not be repeated; reference to an eligible site or facility might be made instead in the introductory clause.

s. It is suggested that s. NR 168.13 (1) (e) begin as follows: “One point, up to a maximum of forty points, shall be” The second sentence of the paragraph may begin as follows: “Points may be awarded only for costs and services that”

t. It is suggested that s. NR 168.13 (1) (f) be revised to read as follows: “One point, up to a maximum of forty points, shall be awarded for each additional 2% of matching funds above the matching funds required under s. 292.75 (7), Stats. An applicant pledging more than the required 20% matches shall provide the pledged percentage of the total final cost.” In this

regard, the definition of “matching funds” in s. NR 168.03 (5) (intro.) should be reviewed for need, content and use in the rule.

u. Is the second sentence of s. NR 168.15 (intro.) stated as intended, given sub. (6) of that section? If sub. (6) covers all of the “other costs,” then the introductory sentence should simply read: “Eligible costs under this chapter include:”.

v. Should “eligible” precede “activities” in s. NR 168.15 (1)?

w. In s. NR 168.15 (2), second sentence, “Labor” should replace “These.”

x. It appears that s. NR 168.19 should be combined or more explicitly linked with s. NR 168.15.

y. The second sentence of s. NR 168.21 (1) repeats s. NR 168.13 (2) (f).

z. In s. NR 168.21 (2), it appears that the second sentence could be stated: “If the applicant is unable to meet this condition, the application is incomplete and the applicant is not eligible for a grant based on that application.”

aa. It appears that s. NR 168.21 (3) could read: “The grant period is 12 months from the date of the department’s signature on the grant contract unless extended under sub. (11).”

ab. Section NR 168.21 references “forms.” [See s. 1.09 (2), Manual.]

ac. In s. NR 168.21 (7), “grant” should modify “payments” in the second sentence.

ad. In s. NR 168.21 (8), it is suggested that the last sentence be deleted and “, or may require the grantee to conduct compliance inspections,” should follow “inspections” in the first sentence.

ae. In s. NR 168.23, the introductory clause should be renumbered sub. (1) and subs. (1) and (2) should be renumbered pars. (a) and (b). Subsections (3) and (4) should consequently be renumbered subs. (2) and (3).

af. The introductory clause of s. NR 168.25 should be renumbered sub. (1) and subs. (1), (2) and (3) should be renumbered pars. (a), (b) and (c). Subsection (4) should be renumbered sub. (2). The title to the section is not consistent with the title shown in the table of contents.

ag. It appears that the introductory clause of s. NR 168.25 should conclude: “. . . if all of the following conditions are met:”. [The entire rule should be reviewed for the appropriate use of the words “any” or “all” in introductory clauses to clearly inform the reader of rule requirements.]

ah. Section NR 168.25 (1) should be modified by replacing “A” with “The” and replacing “should clearly explain” with “clearly explains.”

- ai. In s. NR 168.25 (2), “shall take” should be replaced by “takes.”

4. Adequacy of References to Related Statutes, Rules and Forms

- a. In s. NR 168.07 (3), the use of the phrase “regular application cycles” should refer to s. NR 168.11 (3). [See also s. NR 168.07 (7).]
- b. In s. NR 168.13 (1), it is suggested that the sentence begin as follows: “If the department is required under s. NR 168.07 (5) to score and rank eligible complete applications”
- c. In s. NR 168.13 (2) (e), it is not clear what the reference to “costs and services outlined in s. NR 168.03 (8)” means.
- d. In s. NR 168.21 (1), “required under” should replace “stated in” in the first sentence.
- e. In s. NR 168.21 (10), the statutory cross-reference should be replaced by reference to s. NR 168.07 (4).
- f. In s. NR 168.23 (4), “under sub. (3)” should follow “terminated.”

5. Clarity, Grammar, Punctuation and Use of Plain Language

- a. In s. NR 168.03 (5) (b), the definition of “cash contribution” should be reviewed for clarity and completeness.
- b. Subsections (4) and (7) of s. NR 168.07 should be reviewed for consistency.
- c. The last sentence of s. NR 168.11 (4) appears to be incomplete.
- d. In s. NR 168.13 (1), the meaning and purpose of the last sentence are unclear.
- e. In the first sentence of s. NR 168.15 (intro.), it is not clear what is “approved by the department.”
- f. Section NR 168.17 is unclear. It appears that better drafting would improve clarity.
- g. In s. NR 168.21 (5), first sentence, is “recorded” the right word?
- h. The necessity for s. NR 168.21 (6) is unclear, particularly since as stated it is limited to specified types of regulations.
- i. Section NR 168.21 (11) fails to indicate who approves a request for a time extension.
- j. It is suggested that s. NR 168.23 (intro.) be revised to read: “If a grantee fails to comply with the provisions of this chapter, the department may take one or more of the

following actions:”. The subunits that follow the introductory clause should then be revised accordingly.

k. In s. NR 168.23 (4), what are the criteria for determining whether repayment of some or all grant payments will be required?